

1 MR. PEDIGO: I'll save this for argument.

2 BY MR. PEDIGO:

3 Q When you read the November 1997 Net Wave petition,  
4 did you indicate to your wife the concerns you had?

5 A Yes.

6 Q Did you indicate to your wife you were concerned  
7 on behalf of your both of your daughters as well?

8 A Yes.

9 Q Did you feel that she understood the pressure from  
10 the potential adverse consequences to the entire family from  
11 what happened?

12 A No, sir. We didn't understand what could happen  
13 to us.

14 Q Well, she understood bad things could happen; is  
15 that fair?

16 A Bad things, yes, sir.

17 Q Is it fair to say it would have been very  
18 difficult for her to tell you that she knew something about  
19 those applications submitted in June of 1996 --

20 MR. MCVEIGH: Objection; calling on the witness to  
21 speculate.

22 JUDGE STEINBERG: You're asking for the witness to  
23 put himself in somebody else's mind.

24 MR. MCVEIGH: Exactly.

25 BY MR. PEDIGO:

1           Q     Based on the family dynamics he has testified to,  
2     wouldn't it have been difficult, if not impossible, for your  
3     wife to tell you she in fact knew what happened on --

4           MR. MCVEIGH:  Objection; misstates former  
5     testimony.

6           JUDGE STEINBERG:  I don't think it states any  
7     testimony.  Overruled.

8           Basically what he's asking, I think, is would --  
9     based upon your family dynamics, which I think was my term,  
10    which I -- if Norma's recollection disagreed with yours,  
11    would she defer to you?

12          THE WITNESS:  No, sir.

13          JUDGE STEINBERG:  Well, would she be afraid for  
14    some reason -- I don't mean afraid in a fear context -- but  
15    would she -- it could be an embarrassment, it could be --

16          THE WITNESS:  Intimidated?

17          JUDGE STEINBERG:  Whatever, whatever word you want  
18    to use, from saying to you, "I don't think it happened that  
19    way"?

20          THE WITNESS:  No, sir, she would not.

21          BY MR. PEDIGO:

22          Q     Is it fair to say she would have maybe had that  
23    option at the beginning, but when this matter didn't go away  
24    and you took the positions you took, that option went away;  
25    isn't that right?

1 MR. MCVEIGH: Objection; vague. What option?

2 JUDGE STEINBERG: Well, I think we all know what  
3 option it is. Overruled.

4 THE WITNESS: I'd say this, she wouldn't lie about  
5 it either then or now or whenever.

6 MR. PEDIGO: No further questions, Your Honor.

7 MR. KNOWLES-KELLETT: I have just a few, Your  
8 Honor.

9 REDIRECT EXAMINATION

10 BY MR. KNOWLES-KELLETT:

11 Q I think when I was asking you questions you  
12 indicated that you did not want DLB to use your name to get  
13 a license because you wanted to maintain your independence.  
14 Subsequently, I think that got muddled. And what I would  
15 like you to do is clarify your reasons for not having DLB  
16 use your name.

17 A Because basically -- I used the word  
18 "independence". Probably shouldn't have used. That's a  
19 technical word.

20 I feel like that the accountant and the client  
21 there needs to be a separation between them to a degree, and  
22 I felt like that would be removed if I was in the radio  
23 business with Ronald. I didn't feel like that was proper.  
24 I didn't have textbook independence at any point, there is  
25 no doubt about that. But I would not -- I did not want to

1 have a relationship without that separation.

2 Q Okay. How many times have you gone to Junction  
3 from your house?

4 JUDGE STEINBERG: What period of time?

5 MR. KNOWLES-KELLETT: Ever. Since he's lived in  
6 Mesquite.

7 THE WITNESS: Hundreds.

8 BY MR. KNOWLES-KELLETT:

9 Q What routes -- what route or routes do you take?

10 A Two separate routes. One, go down the Interstate  
11 35 to Georgetown, and then go west. The other route, go  
12 over south of Forth Worth on 67, and go down through  
13 Steenville, Brownwood, that-away.

14 Q Okay. And which is faster?

15 A They are about the same time. You pick up a  
16 little bit going down the interstate, but it's a little  
17 further going down the interstate.

18 Q About how much further?

19 A I don't know. Maybe 10 or 15 miles as best I can  
20 figure it.

21 JUDGE STEINBERG: Do you remember which way you  
22 went on the Friday that we are talking about? I mean, you  
23 left Friday?

24 THE WITNESS: Yes. Yes, sir.

25 JUDGE STEINBERG: Yes, and that would be June 21.

1 THE WITNESS: Right.

2 JUDGE STEINBERG: '96?

3 THE WITNESS: I don't remember. We were more  
4 often to go through -- to go down the interstate because my  
5 mother lived at Temple, and we often would stop there and  
6 visit. And I know we either stopped there on the way down  
7 or the way back. Temple, right on the way on the  
8 interstate.

9 BY MR. KNOWLES-KELLETT:

10 Q Okay, you testified that there was a big event  
11 that caused you to get counsel.

12 Could you explain what the big event was?

13 A The big event was that we filed -- we went through  
14 this and Ronald -- we signed the -- I'm sorry. We signed  
15 the -- what did you all call them? Transfer assessments?

16 Q Assignments.

17 JUDGE STEINBERG: Assignments.

18 THE WITNESS: Assignment, sorry. Assignment  
19 forms. Ronald said he would get it out of our name. We  
20 thought it was over. This was like in January of '98. In  
21 about May I got this call from Ronald. And it was like a  
22 threatening call. If you don't do something, if your girls  
23 don't sign these 800As, they are in big trouble; talking  
24 about FCC fines, how much they were per day, blah-blah-blah-  
25 blah.

1 I realized then that Ronald had been lying about  
2 sending these things in to get -- to get the transfers made.  
3 He hadn't sent them in. And I thought now I've got -- I've  
4 got to do something, and that's when I went out and began to  
5 seek counsel, and a month or so later retained Mr. McVeigh.

6 (Pause.)

7 BY MR. KNOWLES-KELLETT:

8 Q So with respect to the November 29th letters that  
9 I think you testified you wrote on behalf -- Exhibit 53, I  
10 don't know where Jennifer -- Jennifer, Melissa and Norma's  
11 letter, you wrote all of them; is that correct?

12 A Yes, sir.

13 Q Was there a discussion with Norma, Jennifer and  
14 Melissa prior to writing the letters of what they recalled?

15 A Yes, sir. There was a discussion about the Net  
16 Wave petition.

17 Q Okay. So you sort of knew the background facts  
18 before you wrote the words?

19 A Well, I didn't write the letters until I got the  
20 Net Wave petition.

21 Q Okay, but I'm asking -- the New Wave petition, I  
22 think we established, was November -- mailed around November  
23 14th. These letters were two weeks later on November 29th.

24 Had you had a discussion in that time period with  
25 Melissa, Jennifer and Norma about their facts -- the facts

1 that they knew about with respect to the Net Wave petition?

2 A Yes, sir, we had talked constantly. We had talked  
3 about it, and we continued to. I believe my letter of  
4 November 29th is different than theirs. I don't know what  
5 exhibit that is but I believe there is a difference.

6 Q So you had discussed with them, for example -- so  
7 they had told you what they remembered prior to you writing  
8 the letters?

9 A Yes, sir.

10 MR. KNOWLES-KELLETT: Okay, pass the witness, Your  
11 Honor.

12 JUDGE STEINBERG: Mr. Romney.

13 RECROSS-EXAMINATION

14 BY MR. ROMNEY:

15 Q You in fact instructed your daughter, Melissa, not  
16 to sign a Form 800A, did you not?

17 A Yes, sir.

18 Q And you also instructed your daughter, Jennifer  
19 Hell, not to sign an 800A form?

20 A Absolutely.

21 Q And you refused to let them do that even though  
22 Ron requested that they do so?

23 A Mr. Romney, I didn't control them. I advised them  
24 not to sign it.

25 Q You refused to give them permission to do so even

1       though Ron had requested that it be done?

2           A       They didn't need my permission. They were grown  
3       folks.

4           Q       You exercise some degree of control over your  
5       daughters' lives, don't you?

6           A       Yes, sir, I --

7                   MR. KNOWLES-KELLETT: Objection.

8                   MR. MCVEIGH: Objection; lack of foundation.

9                   MR. KNOWLES-KELLETT: It's beyond the scope of my  
10       cross too.

11                   JUDGE STEINBERG: I think it goes to the 800As.  
12       Overruled.

13                   BY MR. ROMNEY:

14           Q       You do exercise some control over your daughters'  
15       lives, correct, in 1996?

16           A       Influence, yes, sir.

17           Q       Yes. And in fact your daughters have followed  
18       your advice on everything that you have instructed them  
19       regarding this FCC investigation?

20           A       Yes.

21           Q       The phone call from Ronald Brasher was that he  
22       said that their licenses could be in trouble, did he not?

23           A       No, sir. He said they can be in trouble, they.  
24       "They are in big trouble" was his words.

25           Q       You keep using the term "separation" when we're



1 talking about independence versus separation.

2 A Yes, sir.

3 Q There can't be any separation, can there, if your  
4 daughter and your other daughter and your wife have licenses  
5 with DLB?

6 A But they are not licensed by the Texas State Board  
7 of Public Accountants.

8 Q But they are your family. You can't even have  
9 this degree of separation that you're talking about because  
10 no matter what, if they are in business, you're in business  
11 with them, right?

12 A No, that's not true.

13 Q And you want the Court to believe that there is a  
14 major distinction between you not having a license and  
15 letting your daughters and your wife have a license?

16 A Absolutely. They are not practicing accounting.

17 JUDGE STEINBERG: For DLB.

18 THE WITNESS: Yes, or anybody. Well, Jennifer  
19 does not.

20 BY MR. ROMNEY:

21 Q And Jennifer was doing bookkeeping for you at the  
22 time those other 800 licenses -- those other licenses were  
23 applied for, right?

24 A She was not a certified public accountant.

25 Q She's an employee of yours, correct?

1 A Yes, sir.

2 Q And at that time Norma was an employee of yours,  
3 correct?

4 A Yes, sir.

5 Q And you understand that when people consider an  
6 accountant, they also talk about all of his employees; is  
7 that correct?

8 A Yes, sir.

9 MR. ROMNEY: Thank you. Pass the witness. I'm  
10 sorry.

11 CROSS-EXAMINATION

12 BY MR. PEDIGO:

13 Q Mr. Knowles-Kellett asked you some question about  
14 why you decided to change counsel. Do you recall that ?

15 MR. MCVEIGH: Objection; misstates former  
16 testimony.

17 JUDGE STEINBERG: It does. He asked questions  
18 about a "big event," which caused Mr. Sumpter to get  
19 counsel.

20 BY MR. PEDIGO:

21 Q The "big event," think was his word.

22 JUDGE STEINBERG: Correct.

23 //

24 BY MR. PEDIGO:

25 Q Is that how you decided?

1 A Yes.

2 Q Okay. And you believe that the application or the  
3 assignment was not filed by Ron; is that correct?

4 A Which application, sir?

5 Q To get the license out of your name.

6 A The assi --

7 Q The assignment.

8 A The assignment?

9 Q Yes.

10 A Okay. Obviously they haven't assigned it. The  
11 last, they were still in my name.

12 Q Okay. Well, you said he lied to you; is that  
13 correct?

14 A He told me he would send it in and get it done.

15 Q Okay. Are you aware that the caption of this  
16 hearing talks about an FCC filed DE-113240, which I'll read  
17 this, "Applicant for Assignment of Stations from Ron Brasher  
18 and from Jim Sumpter, Jennifer Hill, and Norma Sumpter,"  
19 that there is in fact an application for an assignment of  
20 those radio stations that's on file?

21 A I don't know what you are talking about.

22 Q You claimed that Mr. Brasher lied to you because  
23 he didn't submit that assignment.

24 MR. MCVEIGH: Objection; misstates former  
25 testimony.

1 JUDGE STEINBERG: I don't think he testified to  
2 that. If you want to ask leading up to questions, you may,  
3 but I don't think that was his testimony.

4 MR. KNOWLES-KELLETT: We are also lacking a time  
5 frame for when this assignment was filed.

6 JUDGE STEINBERG: We're all talking about the same  
7 thing.

8 MR. KNOWLES-KELLETT: Right.

9 JUDGE STEINBERG: I think. Do you have any -- are  
10 you confused by the questions?

11 THE WITNESS: Completely. I don't know what he is  
12 reading from. I don't understand what he is talking about.

13 JUDGE STEINBERG: Well, it's not important now  
14 what he is reading from because he's going to ask a new  
15 question.

16 THE WITNESS: Fine.

17 BY MR. PEDIGO:

18 Q If in fact those assignment forms that you, your  
19 wife, your daughters signed had been filed by Mr. Brasher,  
20 would that change your opinion about whether he deceived  
21 you?

22 MR. MCVEIGH: Objection; vague; lacks of time  
23 reference.

24 JUDGE STEINBERG: Overruled.

25 THE WITNESS: The point that he was --

1 MR. PEDIGO: Excuse me.

2 BY MR. PEDIGO:

3 Q Do you understand my question?

4 A I was trying to answer it.

5 JUDGE STEINBERG: Okay, here is the thing. You  
6 basically said, and if you disagree with me, please tell me,  
7 I'm not sensitive as you probably gleaned from sitting here  
8 for several hours, you were upset -- Ron Brasher told you he  
9 would get the licenses out of your name; is that right?

10 THE WITNESS: Yes, sir.

11 JUDGE STEINBERG: And you and Norma signed, was it  
12 800As, signed these forms which you thought were going to  
13 get the licenses out of your name; is that correct?

14 THE WITNESS: Well, we knew --

15 JUDGE STEINBERG: This was in January '98.

16 THE WITNESS: We knew that the 800s wouldn't get  
17 them out of our name.

18 JUDGE STEINBERG: Well --

19 THE WITNESS: He said they had to be done before.

20 JUDGE STEINBERG: Okay, let me just -- just follow  
21 along.

22 You wanted them out of your names and you told Ron  
23 you wanted them out of your names?

24 THE WITNESS: Right.

25 JUDGE STEINBERG: Ron gave you some 800As. You

1 signed one, is that right?

2 THE WITNESS: Yes, sir.

3 JUDGE STEINBERG: Norma signed one?

4 THE WITNESS: Yes, sir.

5 JUDGE STEINBERG: Did Jennifer Hill sign one?

6 THE WITNESS: No, sir.

7 JUDGE STEINBERG: Okay, let's limit it to you and  
8 Norma.

9 MR. ROMNEY: It's 1046.

10 MR. PEDIGO: Your Honor, it's Form 1046, and all  
11 four signed a 1046.

12 JUDGE STEINBERG: Okay, 1046?

13 THE WITNESS: That's assignment.

14 MR. ROMNEY: An 800A is a construct letter.

15 JUDGE STEINBERG: Then that's the one that I'm  
16 talking about.

17 MR. PEDIGO: Yes, Your Honor.

18 JUDGE STEINBERG: Okay, we'll call that the  
19 assignment application.

20 THE WITNESS: All right, sir.

21 JUDGE STEINBERG: You signed one in January '98?

22 THE WITNESS: Yes, sir.

23 JUDGE STEINBERG: And Norma signed one in January  
24 '98.

25 In your own mind how fast did you think the FCC

1 THE WITNESS: We had already signed one.

2 JUDGE STEINBERG: Now, the question is if you  
3 found out that your assumption was wrong, and that Ron  
4 Brasher did in fact file the 1046s, but that the Commission  
5 never acted on them, would your opinion of whether or not  
6 Ron Brasher has been truthful with you change?

7 THE WITNESS: Yes.

8 JUDGE STEINBERG: Okay.

9 JUDGE STEINBERG: Is that your question?

10 MR. PEDIGO: Yes, Your Honor.

11 JUDGE STEINBERG: Okay. How about that at a  
12 quarter to seven at night?

13 MR. PEDIGO: No further questions, Your Honor.

14 THE WITNESS: I'll apologize if he sent them in.

15 MR. PEDIGO: Well -- no further questions.

16 JUDGE STEINBERG: That's between you and he and  
17 your attorney.

18 Now --

19 MR. ROMNEY: Can I --

20 JUDGE STEINBERG: Anybody?

21 MR. ROMNEY: Your questions elicited and his  
22 response elicited another question that I have, Your Honor.,

23 JUDGE STEINBERG: Okay, one question?

24 MR. ROMNEY: No, it's probably two or three in  
25 there.

1 JUDGE STEINBERG: Okay.

2 MR. ROMNEY: I request the witness to put in front  
3 of him Exhibit 37, page 30, and also to thumb over to  
4 Exhibit 38.

5 THE WITNESS: Page 30?

6 MR. ROMNEY: Exhibit 37, page 30.

7 THE WITNESS: I'm sorry, sir. Then to go to  
8 exhibit?

9 MR. ROMNEY: Exhibit 38.

10 THE WITNESS: Okay, I've got it.

11 RECROSS-EXAMINATION

12 BY MR. ROMNEY:

13 Q Do you see those two documents there, sir?

14 A Yes, sir.

15 Q And you recognize Exhibit 38 as the 800A construct  
16 letter, correct?

17 A That's 38; yes, sir.

18 Q Exhibit 38?

19 A Yes, sir.

20 Q And you understood that this construction letter,  
21 this 800A form had to be filled out before there could be an  
22 assignment, right?

23 A I was told that by Ronald.

24 Q Okay, Ron told you that you had to have an 800A  
25 filled out before you could have an assignment, correct?



1 A He can't -- may I answer it?

2 Q Yes. But did he tell you that? I mean, I'm just  
3 restating your testimony.

4 A Well, he came to the office and this represented  
5 the 800 and told Norma that this was the transfer paper.  
6 She brought it into my office. I read it. I didn't know  
7 anything about FCC but I knew it wasn't the transfer --

8 MR. ROMNEY: Objection. Move to strike; hearsay,  
9 Your Honor.

10 JUDGE STEINBERG: That's right. Why don't you --  
11 if you can limit your answer to the specific question.

12 BY MR. ROMNEY:

13 Q You were told by Ron that there had to be an 800A  
14 filled out before there could be an assignment, correct?

15 A Yes.

16 Q And then you were also informed later on that this  
17 1046 was the actual assignment form, correct?

18 A Transfer form.

19 Q Yes.

20 JUDGE STEINBERG: Whatever it was.

21 BY MR. ROMNEY:

22 Q And that was going to get it out of your name.

23 A Right.

24 Q Over to -- and it was a two-step process, and  
25 800A.

1 A Yes, sir.

2 Q And then a 1046, correct?

3 A Yes, sir. Yes, sir.

4 Q And yet you have also testified, sir, that you  
5 instructed your daughters not to file an 800A, right?

6 A Yes, sir.

7 Q And how did you expect them under your  
8 understanding then to have a transfer out of their name  
9 without the 800A that you understood you had to file?

10 A I don't know.

11 MR. ROMNEY: Thank you.

12 JUDGE STEINBERG: Do you want to ask -- I mean,  
13 I'll give anybody an opportunity to ask questions based upon  
14 my questioning, Mr. Romney's questioning, and then that will  
15 be it, and then Mr. McVeigh will get the last word to  
16 clarify anything that he believes needs clarifying.

17 Let's go off the record while everyone thinks  
18 about this.

19 (Discussion off the record.)

20 JUDGE STEINBERG: I think, Mr. Kellett, strictly  
21 limited to my question and Mr. Romney's, please.

22 MR. KNOWLES-KELLETT: Okay.

23 (Pause.)

24 FURTHER REDIRECT EXAMINATION

25 BY MR. KNOWLES-KELLETT:

1 Q Did Ron explain up front that this was a two-step  
2 process? You had to sign the 800A and the 1046?

3 A No, sir.

4 Q Did you have a clear understanding that you needed  
5 to file an 800A and a 1046?

6 A No, sir.

7 Q Okay. When your daughter signed the 1046s, did  
8 you expect Ronald to get them out of their name at that  
9 point?

10 A Absolutely.

11 Q Okay. And were you then upset to find out they  
12 were still in your name when he was asking for the 800A?

13 A Yes, sir.

14 MR. KNOWLES-KELLETT: Okay, all finished.

15 JUDGE STEINBERG: Okay. Mr. McVeigh, anything?  
16 And you're not limited, you can cover the whole day if you  
17 want.

18 MR. MCVEIGH: I understand.

19 No, no questions, Your Honor.

20 JUDGE STEINBERG: Okay. Okay, we will be in  
21 recess until nine a.m.

22 (Whereupon, at 6:50 p.m., the hearing in the  
23 above-entitled matter was recessed, to resume at 9:00 a.m.  
24 on Thursday, March 8, 2001.)

25 //

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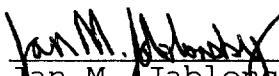
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HEARING DATE: March 7, 2001

LOCATION: Washington, DC

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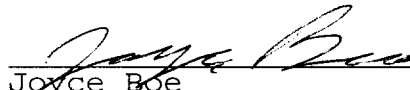
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